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Intel Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**DECLARATION OF FRANK BUSCH IN
SUPPORT OF DEFENDANTS' JOINT
ADMINISTRATIVE MOTION TO SEAL**

Date Consolidated Amended Compl. Filed:
September 13, 2011

Master Docket No. 11-CV-2509-LHK

DECLARATION OF FRANK BUSCH IN SUPPORT OF
DEFENDANTS' JOINT ADMINISTRATIVE MOTION TO SEAL.

1 I, Frank Busch, declare:

2 1. I am an attorney duly licensed to practice law in the State of California, and an
3 associate at the firm of Bingham McCutchen LLP, attorneys for Defendant Intel Corporation
4 (“Intel”). I have personal knowledge of the facts set forth herein, except those matters stated on
5 information and belief. On behalf of Intel, I make this declaration pursuant to Civil Local Rule
6 79-5 and 7-11(a) to demonstrate that good cause exists for the documents described below to
7 remain under seal. I make this declaration in support of Defendants’ Joint Administrative
8 Motion to Seal, filed concurrently with this Declaration. If called and sworn as a witness, I could
9 and would competently testify to the matters stated below.

10 **The Intel Confidential Information That Should Be Sealed**

11 2. I have reviewed: (1) Plaintiffs’ Opposition to Defendants’ Joint Administrative Motion
12 for Leave to Supplement the Record in Support of their Opposition to the Motion for Class
13 Certification and Motion to Strike Dr. Leamer’s Expert Report (“Opp.”), filed by Plaintiffs on
14 January 14, 2013 (Dkt. 270); and (2) the Declaration of Dr. Edward E. Leamer in Opposition to
15 Defendants’ Administrative Motion (“Leamer Opp. Decl.”), and exhibits thereto, filed by
16 Plaintiffs on January 14, 2013 (Dkt. 270-1). As described below, these documents quote from
17 and reference Intel’s employee compensation data, which is designated “CONFIDENTIAL –
18 ATTORNEYS’ EYES ONLY” (“AEO”) pursuant to the Protective Order in this Action (Dkt.
19 107).

20 3. The types of information reflected in the data at issue here are similar to the types
21 described in the Declaration of Tina M. Evangelista in Support of Plaintiffs’ Administrative
22 Motion to File under Seal Plaintiffs’ Notice of Motion and Motion for Class Certification, and
23 Memorandum of Law in Support, filed on October 9, 2012 (Dkt. 203) (“2012 Evangelista
24 Declaration”). The relevant information is:

25 ***Compensation Data***

- 26 • The documents referenced above in paragraph 2 rely upon certain compensation
27 and recruiting data produced by Intel in this action. All referenced data is
28 designated AEO.

The Reasons For Sealing The Redacted Information

4. According to the 2012 Evangelista Declaration, and because the types of information contained in redacted portions of the above-referenced documents are similar to the types of information described therein, the following statements support the motion to seal:

5. The Intel data described above contains information regarding confidential business practices that gives Intel a competitive advantage in recruiting, retaining and compensating its employees.

6. Intel derives independent economic value from the strategic information, or raw data, contained in this compensation information not being generally known to the public or to other persons who can obtain economic value from its disclosure or use.

7. It is Intel's practice to treat this type of data as confidential, and not to disclose it outside the company. I am informed and believe that Intel has taken reasonable steps to ensure that this data remains confidential, including designating it AEO pursuant to the Protective Order filed in this Action.

8. Specifically, Intel seeks to seal the following Intel confidential, commercially sensitive information in the documents described above:

- **Opp. at page 5 lines 6-11** reflects Intel's compensation data. In particular, the redacted information describes changes in salary over time for specific groups of Intel employees.
- **Leamer Opp. Decl. at Exhibit A pages 3, 4, 7, and 8¹** reflects Intel's compensation data. In particular, the redacted figures list specific annual compensation, total compensation, and positions for a number of Intel employees between 2007 and 2011.

The Particularized Harm Disclosure Would Cause

9. According to the 2012 Evangelista Declaration, and because the types of information redacted from the above-referenced documents are similar to the types of

¹ Although the pages of Exhibit A are not numbered, this entry refers to each and every table based upon Intel's compensation data.

1 information described therein, Intel would suffer the following particularized harm if the
2 redacted information is disclosed to the public. The public disclosure of the Intel confidential
3 information contained in Intel's data described above, and reflected in the papers identified in
4 paragraph 2, would put Intel at a significant competitive disadvantage in terms of its ability to
5 identify, recruit, and compensate its employees. Public disclosure of Intel's detailed
6 compensation data would also give those other companies an unearned advantage by giving them
7 the benefit of Intel's compensation strategies, compensation levels, and other related
8 information.

9 10. Because this information cannot be disclosed to the public without causing this
10 harm, it should be protected by redacting it and each reference to it from public filings.

11 I declare under penalty of perjury that the foregoing is true and correct. Executed
12 in San Francisco, California on January 22, 2013.

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15 /s/ Frank Busch
Frank Busch
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